

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

MAHSA PARVIZ,

Petitioner,

v.

H. BARRON and C. PETERS,

Respondents.

CASE NO. 2:23-CV-1407-JHC-DWC

ORDER DENYING CUSTODIAL  
TRANSFER AND GRANTING  
EXTENSION OF TIME

Currently pending before the Court is Petitioner Mahsa Parviz's Motion for Custodial Transfer and Motion for Extension of Time to File Traverse. Dkts. 44, 46. After consideration of the record, the Motion for Custodial Transfer (Dkt. 44) is denied and the Motion for Extension (Dkt. 46) is granted.

**I. Custodial Transfer (Dkt. 44)**

In the Motion for Custodial Transfer (Dkt. 44), Petitioner requests the Court transfer her to California under Federal Rule of Appellate Procedure 23(b)(2). The authority to transfer or release a prisoner under Rule 23 pending habeas review appears to rest with the appellate court, not the district court. *See United States v. Carreira*, 2016 WL 1047995 (D. Haw. Mar. 10, 2016) (Rule 23 "facially applies only to motions for release filed after the district court has issued a

1 decision on the merits of a habeas petition"). As this Court has not made a decision on the  
2 Petition and as there is no pending appeal, a transfer or release order under Rule 23 is not  
3 appropriate. Moreover, Petitioner has not demonstrated this is an extraordinary case involving  
4 special circumstances that would warrant involvement in Petitioner's transfer. Therefore, the  
5 Motion for Custodial Transfer (Dkt. 44) is denied.

6 **II. Extension of Time (Dkt. 46)**

7 In the Motion for Extension of Time (Dkt. 46), Petitioner requests a 30-day extension of  
8 time to file her response to Respondent's Answer. Petitioner also requests an additional copy of  
9 Respondent's Answer and supporting exhibits. Dkt. 46. Petitioner does not state why she needs  
10 the extension of time, but Petitioner notes Respondent's Answer was damaged and missing  
11 several pages. *Id.* After review of Petitioner's Motion and the relevant record, the Motion for  
12 Extension (Dkt. 46) is granted.

13 **III. Conclusion**

14 For the above stated reasons, the Motion for Custodial Transfer (Dkt. 44) is denied. The  
15 Motion for an Extension of Time (Dkt. 46) is granted. Petitioner's response to the Answer must be  
16 filed on or before April 29, 2024. Respondent's optional reply is due on or before May 3, 2024.

17 The Clerk is directed to send Petitioner's copies of Respondent's Answer and Exhibits  
18 (Dkts. 42, 43). The Clerk is also directed to re-note the Answer (Dkt. 42) for May 3, 2024.

19 Dated this 29th day of March, 2024.

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David W. Christel  
United States Magistrate Judge